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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,787	01/17/2006	Dirk Andritter	016906-0461	3325
22428 7590 09/10/2008 FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007				
EXAMINER				
WUJCIAK, ALFRED J				
ART UNIT		PAPER NUMBER		
3632				
MAIL DATE		DELIVERY MODE		
09/10/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/564,787

**Applicant(s)**

ANDRITTER, DIRK

**Examiner**

Alfred Joseph Wujciak III

**Art Unit**

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 and 6-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 6-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
- Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

This is the non-final Office Action for the serial number 10/564,787, FIXING MEANS FOR AN OIL COOLER, filed on 1/17/06.

***Claim Rejections - 35 USC § 102***

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3 and 7-11 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent # 6,901,922 to Kent et al.

Kent et al. teaches a fixing device comprising a cooler (20,22) fixed in a cooler receiving element (134). The cooler receiving element comprises a latching connection (52, 56) located between the cooler receiving element and the cooler. The latching connection centers and fixes the cooler in the cooler receiving element. The latching connection is kept pre-tensioned in a desired position by an energy store. The energy store is being spring (plastic being elastic which has the same the property as spring) formed from a material tongue (projection part of element 52) formed on the cooler receiving element. The latching connection comprises a latching connection element (52) on a side of the cooler receiving element and engages in a latching receiving element (openings of 22, column 4, lines 11-12) on the side of the cooler. The latching connection element and the latching receiving element form a clip connection. The cooler receiving element is in U-shaped with the respective latching connection being formed on both limbs of the U-shaped. The limbs are spaced apart/ spread out vertically from one another during installation/introduction process. The cooler receiving element is fixed on a vehicle side

(vehicle frame, column 1, line 19). The cooler receiving element is made of plastic (column 2, line 15).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kent et al.

In regards to claim 6, Kent et al. teaches the spring store but fails to teach the spring store is divided in a dovetailed manner. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified the spring with dovetailed manner to provide alternative method for connecting two elements (40) together.

In regards to claim 12, Kent et al. teaches the limbs comprising latching depression (36) and cooler comprising latching lug (32) but fails to teach limbs comprising latching lug and cooler comprising latching depression. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have swamped position with latching depression from limbs to cooler and latching lug from cooler to limbs to provide designer's preference for location of lug and depression on limbs and cooler.

***Response to Arguments***

Applicant's arguments filed 8/20/08 have been fully considered but they are not persuasive.

The applicant argues "Kent does not disclose that the bracket is 'a latching connection' between the oil cooler receiving element and the oil cooler." The examiner disagrees with the applicant because Kent's bracket is designed to connect the cooler to the cooler receiving element (134) by latching connection (52 and 56). The bracket has two parts which are hingedly connected to each other with the semi circular in the center of two parts for fastening on tubular object such as cylindrical part of cooler. To keep the bracket mounted on the cooler, the two parts of bracket comprise latching connection with one with projection on one part and the other with slot on the other part.

The applicant argues Kent does not teach the heat exchanger is an oil cooler. The examiner disagrees with the applicant because Kent's heat exchanger is designed to cool the engine where the oil is located therein which also cool the oil. Furthermore "oil cooler" requires the prior art to have the ability of performing the function by cooling the oil. Kent's heat exchanger has the ability to cool the oil in the engine.

The applicant stated "Furthermore, the posts of Kent do not 'centers and fixed the oil cooler in the oil cooler receiving element'". The examiner disagrees with the applicant because the posts in Kent's invention is designed to centers and fixed the oil cooler in the oil cooler receiving element by securing the two parts of bracket together in the center axis of the tubular part of cooler.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joey Wujciak whose telephone number is (571) 272-6827 or send e-mail to the examiner at [Joey.Wujciak@uspto.gov](mailto:Joey.Wujciak@uspto.gov). The fax machine telephone number for the Technology Center is (571) 273 8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Primary examiner  
A. Joseph Wujciak III  
Art Unit 3632  
9/8/08  
/A. Joseph Wujciak III/

**Application Number****Application/Control No.**

10/564,787

**Applicant(s)/Patent under  
Reexamination**

ANDRITTER, DIRK

**Examiner**

Alfred Joseph Wujciak III

**Art Unit**

3632